

TITLE 4. BUSINESS REGULATIONS

DIVISION 6. OUTDOOR ADVERTISING, DEPARTMENT OF TRANSPORTATION

§ 2241. Enforcement

(a) The Department of Transportation and the Director or the Director's designee is hereby authorized and directed to enforce the provisions of the Act and these regulations, and are further authorized and directed to revoke a license or a permit and remove a Display for violating any provision of the Act or these regulations.

(b) All hearings provided for in these regulations shall be conducted in accordance with the provisions of Chapter 5, commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code (the "California Administrative Procedures Act"). Any such hearing must be requested by filing a written appeal with the Director (c/o the Office of Outdoor Advertising) within thirty (30) calendar days of the written violation notice, denial, revocation or other determination being appealed. The Director shall thereafter issue a decision, based on finding of fact, affirming, modifying or vacating the denial, revocation or other determination.

- (1) The written appeal shall contain the name and company affiliation, if any, address and phone number of the person appealing, the permit or license number, if any, the location of the billboard, with specificity and a statement of the basis for the appeal.
- (2) No person shall be entitled to more than one hearing stemming from the same written violation notice, denial, revocation, other determination or set of facts. Hearings will be held in Sacramento, Los Angeles, or San Diego. The Director may agree to hold a hearing at a different locale under extraordinary circumstances.
- (3) The failure of a permittee or other person who has appealed to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written violation notice, denial, revocation or other determination shall constitute a final order of the Director and not be subject to further administrative review.
- (4) Nothing herein prevents the Department and affected party or parties from attempting to resolve the dispute informally; however, informal attempts at

resolution shall not extend the thirty (30) day period to file an appeal under these regulations.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5250 and 5463, Business and Professions Code; and *23 USC Section 131(r)(2)*.

§ 2242. Definitions

The following terms when used in this Title 4, Division 6, have the following meanings:

(a) "Accepted" means the official act of acceptance by the Department of a contractor's completion of a highway project acknowledging the contractor has performed all obligations of a highway contract.

(b) "Act" means the California Outdoor Advertising Act, Sections 5200 et seq., Business and Professions Code.

(c) "Adjacent To" means located within, either in whole or part, an area formed by measuring 660 feet laterally from the edge of the right-of-way of a landscaped freeway sections along a line perpendicular to the center line of the freeway.

(d) "Changeable" means any message change occurring more than once every twenty-four hours.

(e) "Chief Landscape Architect" means the employee of the Department of Transportation charged with statewide responsibility for supervising Highway Planting Projects.

(f) "Completed" means a contractor has performed all obligations under a highway project contract.

(g) "Continuous Planting" means State right of way contiguous to the traveled way which is planted with Ornamental Vegetation in accordance with standard landscaping practices. A physical break in the Planting of less than 200 feet for items such as a highway overcrossing or undercrossing, a stream, a canal, a stairway, a culvert, or a water system is not a gap and may not end a Continuous Planting.

(h) "Certificate of Sufficiency" formerly known as "Design Certification", means the design engineer for a given project certifies to Right of Way and Asset Management that the right of way indicated on the project maps is the area necessary for a given project.

(i) "Deputy Director Project Development" means the Deputy Director of Project Development of the Department of the Department of Transportation.

(j) "Display means an advertising Display as defined in Section 5202.

(k) "Extension" means an Incidental increase in size of the advertising area which does not exceed the height, length, or total area allowed for in Section 5408(a) of the act.

(l) "Facing" means the portion of the Display that contains advertising copy.

(m) "Highway Planting Project" means an area of State highway right-of-way planted in conformance with plans developed or approved by the Department.

(n) "Imprint" means a marker (a stake or a flag) visible and legible from the highway that identifies the applicant by name or logo placed at the location of proposed display.

(o) "Incidental" means up to 33 percent of the total advertising area of the Display as authorized according to the Department's records and relates to the specific advertising copy. Measurement is made based on the height and the length but not the depth.

(p) "Landscape Architect" means a person employed by the Department who holds a certificate to practice Landscape Architecture in California under the authority of Division 3, Chapter 3.5, of the Business and Professions Code (5615 et seq.).

(q) "Light Box" or "sign cabinet" means a portable unit that is Incidental to the Display and its message does not flash, is not in motion, and does not change more than once every two minutes.

(r) "Ornamental Vegetation" means lawns, trees, shrubs, flowers, or other Plantings designed primarily to improve the aesthetic appearance of the highway. Inert material specifically placed to highlight the Ornamental Vegetation is considered part of the Ornamental Vegetation.

(s) "Office of Outdoor Advertising" means that unit of the Department which is delegated by the Director the responsibility of enforcing the Act and these regulations.

(t) "Penalty Fee" means a fee charged for late renewal of a license or a permit.

(u) "Permittee" means the applicant or a subsequent designee on record with the Department as owner of the outdoor advertising permit to place and maintain a specific Display.

(v) "Planting" means the placing or putting into the ground of any vegetation or seeds of vegetation; to set or sow with seeds or plants.

(w) "State Law" means only statutes enacted by the State Legislature, initiative process, or state constitutional provisions.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5200, 5202, 5216, 5250, 5440 and 5485, Business and Professions Code.

§ 2243. On-Premise Display

On-premise Display is defined under Sections 5272, ~~5273, 5274~~, 5405(b), 5405(c), and 5442 of the Act. A Display consisting of the following is outdoor advertising and not an on-premise Display:

(a) A Display which advertises directions to, or the sale or lease of the property on which it is located, but which also advertises any product, service, or business activity unrelated to the sale or lease of the property on which the Display is located.

(b) A Display which advertises activities conducted on the property on which the Display is located, but which also advertises other activities not conducted on the property on which the Display is located.

(c) A Display which advertises a brand name, trade name, product or service only incidental to the principal activity conducted on the property, or from which the business or property owner derives rental income.

(d) A Display placed at or near the end of a narrow strip of property, which is contiguous to the property on which the advertised activity is conducted.

(e) A Display which solely advertises the sale or lease of the property upon which it is placed, but which also identifies a corporation or business activity as the property owner more conspicuously than the for sale or lease message.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273, 5274, 5405(b), 5405(c) and 5442, Business and Professions Code; and 23 CFR Section 750.709.

§ 2244. On-Premise Display Within a Redevelopment Project

The applicant for an advertising display to be constructed pursuant to Sections 5273, 5273.5 or 5274 of the Act shall accurately complete and submit the Outdoor Advertising Structure Permit/Application, Form ODA-002 ~~(Rev. 11/98)~~ which is incorporated by reference, with a Redevelopment project boundaries map, application, permit fees and a Certification ~~by Display Owner of Display Within Redevelopment Projects (Rev. 09/99)~~ in writing by the Redevelopment Agency that the display is in the boundary area of a redevelopment agency project and will only advertise businesses and activities within the project where the advertising display is placed., which is incorporated by reference. The Redevelopment Agency shall provide the Department with a list of all qualifying businesses and activities in the specified project area. It shall be the obligation of the advertising display owner to demonstrate that any business or activity advertised meets the standards of the Act if it is not included on the list of qualifying businesses and activities provided by the Redevelopment Agency. After certifying the display meets the criteria of sections 5273, 52.73.5 or 5274, it shall be considered an on-premise display and no permit will issue. The applicant will pay a processing review fee equal to the current amount of a permit application fee.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5273 and 5273.5, Business and Professions Code.

§ 2245. Extension of Time Limit for an On-Premise Display Within a Redevelopment Project

A Display is considered on-premise within a redevelopment project for a period of 10 years or the completion of the project, whichever first occurs, unless an arrangement is made between the redevelopment agency and the Department to extend the period for good cause.

(a) The Department provides written notice to the redevelopment agency governing the project and a copy to the Permittee if different, that the time limitation is expiring, after which Sections 5272 and 5405 of the Act apply.

(b) The redevelopment agency may request the Department to extend the time limit for a Display to be considered on-premise within a redevelopment project. The request must be in writing and made before the 10-year period expires or within 30 days of the Department's notice, whichever is later. The written request must also identify the good cause for extension and the estimated project completion date.

(c) The Department provides a written response within 30 days of receiving the request for extension from the redevelopment agency.

(d) If an extension is not arranged, the Display must meet the requirements of Sections 5272 and 5405 of the Act, or a new permit must be obtained. If the Display does not meet one of those requirements, the Display must be removed or is subject to the violation, penalty and removal provisions of the Act and these regulations. process described in Chapter 3.6, commencing with section 2440 in Title 4 of the California Code of Regulations.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273 ~~and~~ 5405, and 5485, Business and Professions Code.

§ 2250. Location.

Note: --§ § 2250 to 2258, inclusive, issued under authority contained in Section 5215, Business and Professions Code. Source of § § 2250 to 2258, inclusive, is the Rules and Regulations made by the Director of ~~Public Works~~ the Department of Transportation, Outdoor Advertising Act

§ 2270. Customary Maintenance

"Customary maintenance" means any activity performed on a Display for the purpose of actively maintaining the Display in its existing approved physical configuration and size dimensions at the specific location approved on the application for State Outdoor Advertising Permit, or at the specific location officially recorded in the records of the Department for a legally placed Display, for the duration of its normal life.

(a) Customary maintenance includes the following activities:

(1) Changing of the advertising message.

(2) Adding an Extension to an outside dimension of a Display as incident to the copy for a temporary period up to three years.

(3) The sale, lease, or transfer of the Display or its Permit.

(4) Adding a Light Box.

(b) Customary does not include the following (all of which acts are considered as a "placing" of a new advertising Display):

(1) Raising the height of the Display from ground level.

(2) Relocating all or a portion of a Display.

(3) Adding a back-up Facing to a single Facing Display.

(4) Increasing any dimension of a Facing except as permitted by Section 2270(a)(2).

(5) Turning the direction of a Facing.

(6) Adding illumination or a Changeable message, including, but not limited to, "tri-vision" signs, with the exception of a light box.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5415, Business and Professions Code.

§ 2271. Destroyed **Nonconforming** Display

(a) A **nonconforming** Display is destroyed and not eligible for customary maintenance when for 60 days after notice from the Department, it remains damaged and is not used for the purpose of outdoor advertising in the configuration (size, Facings, location, structure) approved by the Department.

(b) When the Department becomes aware of or identifies a damaged **nonconforming** Display, the Department mails a written notice by certified mail to the Permittee beginning the 60-day time period for the Permittee to refurbish, replace, rebuild, or re-erect in kind or smaller the damaged Display and to place advertising copy. An "available for lease" or similar message that identifies the advertising availability of the Display on which the message is placed is advertising copy as long as the message contains a valid telephone number or address to contact for information, if the display has been otherwise refurbished, replaced, rebuilt, or re-erected in kind. Refurbishing, replacing, rebuilding or re-erecting shall be to the approved characteristics as recorded in the department's records for the Display. This notice is not necessary if the Permittee has completed repair back to the approved characteristics prior to notice being issued by the Department.

(c) The Permittee has until the end of the 60-day time period identified in the Department's notice to repair, replace, rebuild, or re-erect in kind the damaged nonconforming Display and place advertising copy. Upon receiving written notice from the Permittee showing good cause prior to the 60th or last day of the time period, the Department may extend the established time period not to exceed a total of six months. In such case, the Department shall issue a written response identifying by what date the work must be completed.

(d) When the ~~nonconforming~~ Display is not restored and advertising is not placed before the last day of established time period, the Display's customary maintenance is ended and the Display is deemed destroyed. When the ~~nonconforming~~ Display is deemed destroyed, the permit is revoked, subject to appeal revocation and the remains of the Display are subject to removal under the violation process in Chapter 3.6, commencing with section 2440 in Title 4 of the California Code of Regulations. After the permit is revoked, a permit may not be issued for the location unless the Display conforms to all laws and regulations in effect at the time of application. The last Permittee is responsible for the removal of all remnants of the destroyed Display.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5225 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

§ 2272. Abandoned ~~Nonconforming~~ Display

(a) A ~~nonconforming~~ Display is abandoned ~~and its legal nonconforming use is terminated~~ when it ceases to exhibit current advertising copy ~~or the Display is removed~~. An "available for lease" or similar message that identifies the advertising availability of the Display on which the message is placed is considered advertising copy as long as the message contains a valid telephone number or address to contact for information.

(b) The Department shall send a written notice, by certified mail, to the Permittee of a ~~nonconforming~~ Display that has been removed requiring the Permittee to replace the removed Display within sixty (60) days of the date of the Department's notice. ~~that appears to be abandoned and discontinued.~~

(c) ~~The Department shall send a written notice, by certified mail, to the Permittee of a Display which has ceased to exhibit current advertising copy. The notice requiresing requiring the Permittee to place advertising copy on the Display within sixty (60) days of the date of the Department's notice. The Department may extend this time if written notice showing good cause from the Permittee is received by the Department prior to the last day of the time period.~~

(d) ~~If t~~The Permittee's ~~fails failure~~ to comply with sections (b) or (c) of this regulation ~~results in an abandoned Display. T~~he permit shall be revoked, subject to appeal, and no new permit may be issued for this location unless it conforms to the laws and regulations in effect at the time of application. ~~When advertising copy is not placed on the nonconforming Display by the established time period, the Display's customary maintenance is ended and the Display is deemed abandoned. When the Display is deemed abandoned, the permit is subject to revocation and the remains of the Display are subject to removal under the violation process in Chapter 3.6. After the permit is revoked, a permit may not be issued for the location unless the Display conforms to all laws and regulations in effect at the time of application.~~ The last Permittee is responsible for the removal of all remnants of the abandoned Display.

(e) Any permittee served with a notice of revocation may appeal this determination to the Director pursuant to Section 2241 (b) of these Regulations.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5415 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

§ 2300. Scope

The standards for regulating outdoor advertising on protected bonus segments of an interstate highway are specified in Title 23, Code of Federal Regulations (CFR), Chapter 1, commencing with Part 750.101, through 750.109 (as last amended March 4, 1976), and by this reference are incorporated in these regulations as if fully stated herein. Any future amendments to the above-referenced federal bonus segment regulations will be deemed part of these regulations on its effective date.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5251, Business and Professions Code.

§ 2401. Measurement of Distances from a Commercial or Industrial Activity

(a) A Display is placed in a business area when the Display is on property zoned as commercial or industrial by the local zoning authority and is within 1,000 feet of a commercial or industrial activity.

(b) To determine if a Display is within 1,000 feet of a commercial or industrial activity, measurement is made "in each direction". Measurement of distance to a Display is made along or parallel to the edge of the pavement of the main-traveled way from the outer edge of a commercial or industrial activity. The display also is within 1,000 feet when measuring the summation of the distance of "A" and "B". Refer to Diagram 3-1, Figures 1 and 2.

DIAGRAM 3-1

[See Illustration In Original]

(c) An "activity" is located within 1,000 feet of the right of way and includes all buildings, structures, and related commercial and industrial uses, such as a driveway or a parking lot.

(d) Examples of activities not considered commercial or industrial include, but are not limited to, the following:

(1) A Display.

(2) Agricultural, forestry, grazing, farming and related activities, including, but not limited to wayside fresh produce stand vending.

(3) A commercial or industrial activity that is unbuilt, transient, temporary, or open for less than 100 days a year.

(4) Railroad tracks.

(5) An activity conducted in a building principally used as a residence.

(6) Any activity that does not have state or local business licenses and/or permits which are required to legally engage in the qualifying activity.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5205, 5223 and 5408, Business and Professions Code; 23 CFR Section 750.708; and 23 USC Section 131.

§ 2422. Permit Application Process

(a) The applicant shall, in accordance with the Act:

(1) Accurately complete and sign the Outdoor Advertising Structure Permit/Application, Form ODA-0002 (Rev. 11/98).

(2) Submit the completed application and fees to the Department at the address specified on the application.

(3) Place and maintain an Imprint at the proposed Display location.

(4) Provide written evidence that the owner or other person in control or possession of the property and the city and county with land use jurisdiction over the property have consented to the placing of the advertising display. Evidence of property owner consent shall be a form of a copy of a lease, license or other land use agreement or another form of written acknowledgement from the owner that such consent has been given. The economic terms of any such agreement need not be included. The consent of the city or county shall be demonstrated by producing a copy of the applicable building or sign permit, or other official act of the city and county used in that jurisdiction to authorize construction, or to demonstrate that the city or county requires no specific consent to construct an advertising display.

~~(4)~~ (5) Correct any application deficiencies, pursuant to notification as required by (b)(3) within 30 days. The applicant may request an extension of the 30-day time period. The request must be in writing.

(b) The Department shall, in accordance with the Act:

(1) Date and time stamp the application on the date and in the order received by the Office of Outdoor Advertising.

(2) Review the application on the basis of its qualifications as of the date received (For example, the required business activity and zoning must exist on the date the application is received). The application is processed in accordance with the following subsections (A) through (G).

(A) First priority is given to renewing a permit for a legal Display (constructed or not constructed).

(B) An application for a legally placed Display that did not previously require a permit is processed before an application for a new Display.

(C) An application to place a new Display along an existing highway is processed in the order received.

(D) An application for placing a new Display along an existing highway where the copy will be visible from a new alignment of an interstate or a primary highway and the location is nonconforming to the new alignment is not accepted after ~~Design-Certification~~ Certificate of Sufficiency is executed.

(E) An application for placing a new Display along a new alignment of an interstate or primary highway is accepted on or after the date the highway project is Accepted.

(F) An application to relocate an existing permitted Display to accommodate widening or extensive modification of an interstate or a primary highway is processed before an application to place a new Display.

(G) An application for a new Display received after ~~Design-Certification~~ a Certificate of Sufficiency is executed for widening or extensive modification of an interstate or a primary highway is not processed until the orderly relocation of an existing Display is completed, as coordinated by the Department. The Department issues a notice to the applicant when processing is delayed for this reason. The processing time begins after the orderly relocation of an existing Display is completed.

(3) Provide a written 30-day deficiency notice to the applicant when it is determined there is a deficiency, such as the Imprint is missing or information on the application is missing, is in error, or conflicts with findings. Failure to correct the deficiency within the time allowed results in denial of the application.

(4) Provide a final decision issuing a legal permit or denying permit issuance identifying the noncompliance with law. The permit or denial notice is issued within 60 days from the date the application is received, excluding the time periods for which notices were issued under subsection (b)(3).

(5) Reserve a location for ninety (90) days in accordance with Section 5354 (b) and (c) of the act, if a written request from the city or county with land use jurisdiction over the proposed location is received in lieu of a building or sign permit, properly acknowledged by the City Council or Board of Supervisors or their official designee. The description of the proposed location in the city or county's notice shall be consistent with the location requested on the permit application. If a city or county requests an additional thirty (30) day hold on a location in accordance with section 5354 (c), in addition to the requirements for an initial 90 day hold specified above, the city and county must detail the extenuating circumstances meriting an additional 30 days. Examples of such extenuating circumstances include, but are not limited to, an inability to properly notice a necessary hearing within the initial 90 days, the unavailability of a necessary witness or property owner, the discovery of newly found evidence or facts, or the late objection of an affected property owner.

(c) An Applicant whose permit application is denied may appeal that determination in accordance with the provisions of Section 2241 (b) of these Regulations. Such appeal will be considered a new application pursuant to Section 5486 of the Act will require payment of a new application fee, which will be refunded if the appeal is granted. Until such appeal is finally determined, no permit shall be issued to any other applicant that would affect the legality of a denied permit application until completion of the appeal.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5252 and 5350-5358, Business and Professions Code; and Section 15376, Government Code.

§ 2424. Permit Renewal Process

(a) A permit must be renewed pursuant to Section 5360 of the Act. The permit renewal process consists of the following:

(1) The Department mails a renewal application for a term of five years to the Permittee at the Permittee's last address on the Department's record at least 30 days before the expiration date.

(2) The Permittee returns the completed Form ODA-0013(A), Application For Outdoor Advertising Permit Renewal 1999-2003 (Rev. 09/99) which is incorporated by reference, and fee to the Department postmarked on or before December 31 of the year in which the permit expires to avoid a penalty. The Permittee would be scheduled to pay as follows:

(A) A Permittee holding 10 or more permits may pay one-fifth of the fee (pro-rata fee) to the Department on an annual basis postmarked each year on or before December 31 to avoid a penalty fee. A Permittee shall be responsible for paying the then current annual fee at the time of each pro-rata payment.

(B) A Permittee holding less than 10 permits must pay the total fee every five years on or before December 31 of the year in which payment is due to avoid a penalty fee. A Permittee prepaying for five years may be assessed any increase in the annual fees, due by December 31 of the year which payment is due.

(C) The Permittee is responsible for contacting the Department if a renewal application is not received.

(3) A permit is expired and is subject to a mandatory penalty of \$ ~~75.00~~ 100.00 if the renewal application and fee are received by the Department postmarked after December 31 of the year in which the permit expires or the pro rata payment is due. ~~A permit is expired and is subject to a mandatory penalty fee if the pro-rata fee is received postmarked after December 31 of the year in which it is due.~~

(4) The Department shall issue the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations and an unexpired building permit has been issued, if the display has not been constructed. Permits issued prior to December 31, 2002, for Displays that have not been constructed or have not obtained an unexpired building permit, will not be revoked until July 1,

2004, if the applicable city or county confirms that a building permit is being actively considered for the Display. The Department will also review its records to determine there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires. The permit entitles the permittee to place the permitted display for the term of the permit, provided all pro rata fees are timely received.

(5) If the Department fails to issue a permit according to this Chapter and the Act within one year after receiving a complete and valid renewal application and required fees, the permit is considered renewed for the year of the renewal application. An applicant shall provide a certified mail receipt or signed acknowledgment of receipt by a Department representative to invoke this provision. This section does not apply to a permit under review pursuant to Chapter 3.6 commencing with section 2424(C) in Title 4 of the California Code of Regulations or a legal action.

(6) The following occurs when a permit is not renewed in accordance with (a)(1) to (a)(4) of this section:

(A) The Department provides written notice by certified mail to the Permittee at the address on record at least 30 days before the cancellation date indicating the permit is expired, is not in compliance with the Act, or the permit fee or the pro-rata fee is not received. However, the permit may be renewed with a penalty fee.

(B) The Permittee has until December 31 of the first year following the expiration of the permit to return the renewal application, permit fee or pro-rata fee, and penalty fee or notify the Department to cancel the permit because the Display has been removed.

(C) The Department issues the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations. The Department will also review its records to determine if there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires.

(D) When the Permittee fails to comply with subsection ~~(5)~~(6)(B), the permit is not renewable and the Director shall notify the permittee by certified mail that the permit is will be revoked in thirty (30) days. Any permittee served with a notice of revocation may appeal this decision in accordance with the provisions of section 2241 (b) of these Regulations. ~~The Department shall issue a violation notice for revocation of the permit and removal of the Display in accordance with Chapter 3.6 commencing with section 2440 in Title 4 of the California Code of Regulations.~~

(7) A permit must be renewed by the end of the first year after expiration or lose eligibility for renewal.

(8) The renewal application for a valid, unrevoked, and unexpired permit shall be mailed when issuance of the permit is pending resolution of a violation notice or a legal action. The Permittee shall continue to comply with the renewal requirements. The permit is issued only when a final decision is made by the ~~Caltrans Outdoor Advertising Review Board Director~~ or by a court of law that does not uphold the violation. Fees will be deposited into the State Highway Account and when appropriate, refunded upon the final decision.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5358, 5360, 5463 and 5485, Business and Professions Code.

§ 2425. Permit Transfer Process

(a) The Department will change its records to show a new Permittee for a valid, renewed, and unrevoked permit when one of the following occurs:

~~(a)~~ (1) The Permittee provides a written transfer notice to the Department that identifies the permit number and the new Permittee's name and business address.

~~(b)~~ (2) The Permittee returns the renewal application during the renewal period identifying the new Permittee's name and business address.

~~(c)~~ (3) The Department receives a bill of sale signed by the Permittee that transfers ownership of the permit.

~~(d)~~ (4) The Department receives documents proving the Permittee is deceased and the Display is transferred. The new Permittee shall provide the information required in subsection (a).

~~(e)~~ (5) A court order requires or authorizes the transfer.

(b) Any party whose request to have a permit transferred is denied, and any former permit holder whose permit is transferred may appeal the decision in accord with the provisions of Section 2241 (b) of these regulations.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code; and 23 CFR Section 750.707(d)(3).

§ 2426. Business Address of Permittee and Licensee

(a) The Permittee shall maintain on file with the Department one mailing address. If the mailing address contains a P.O. Box, a street address of the Permittee's principal place of business shall also be provided.

(b) The licensee shall maintain on file with the Department one person's name as defined in Section 5219 of the Act and one mailing address. If the mailing address contains a P.O. Box, a street address of the licensee's principal place of business for outdoor advertising activities shall also be provided.

(c) When there is a change in the name, the mailing address, or the street address of the principal place of business, the Permittee or licensee shall notify the Department, in writing, not later than 30 days following the change.

(d) If the Permittee or licensee fails to notify the Department of a change in address, the mailing of any Departmental notice is effective when mailed to the last address on file. When the notice is to revoke a permit or a license, that notice is maintained on record with the Department for ~~five~~ one years.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code.

§ 2427. Permits for Relocated Displays.

No person shall place any advertising display pursuant to a Relocation Agreement without having first secured a Permit. Permits for relocated displays will be issued if the following criteria are met:

(a) the relocation agreement is authorized by law, such as sections 5412, 5443, or 5443.5 of the Act;

(b) the new display complies with sections 5354, 5400-5405, and 5408 of the Act;

(c) the new display will not cause a reduction in the federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code; and

(d) the Department does not assume any potential additional liability if the new display is acquired in the future for a public purpose.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code

Reference: Sections 5354, 5400-5405, 5408, 5412, 5443 and 5443.6, Business and Professions Code; and 23 U.S.C. 131.

§ 2441. Violations for Permanent Displays

(a) When the Department determines a permanently placed Display violates the Act or these regulations, the owner of that Display is given a written violation notice by certified mail that the Display is in violation and subject to removal, and the owner is liable for all statutory penalties and removal costs if the Display is removed by the Department, actual costs of removal.

(b) The violation notice states ~~each~~ the violation, the owner's responsibility to respond, and the owner's opportunity to request a review by the Director pursuant to the provisions section 2241 (b) of these Regulations.

(c) ~~If the display has been issued a permit, the~~ violation notice is issued to the Display owner Permittee unless the Department has been notified in writing that another party with a property interest in the Display also has requested notice of any action concerning the Display. ~~The Display owner is identified as the Permittee person with their name plainly displayed thereon.~~ When a Permittee differs from the name on the Display, it is assumed the Permittee is the Display owner and the entity named on the Display is only maintaining it, unless the Department has been notified otherwise. When the owner of the Display is not plainly displayed thereon and no permit exists, ~~the Display owner is identified as~~ the violation notice shall be issued to either the property owner at the address on record with the county assessor's office or the advertiser identified on the Display.

(d) A new violation notice is not issued if the Display is sold, transferred, or the copy is changed. When purchasing a Display, the new Display owner is responsible for determining the legal status of the Display by contacting the Office of Outdoor Advertising.

(e) The owner has 30 days from the date of the certified mailing of the violation notice to respond as follows;

(1) Correct the violation, or

(2) Remove the Display, or

(3) ~~Request~~ Appeal to the Director in writing pursuant to the provisions of section 2241 (b) of these Regulations. ~~an informal review of the violation notice pursuant to 2443.~~ This request shall contain a statement of reasons supporting the ~~request~~ Appeal pursuant to Section 2442 of these regulations.

~~(4) Object in writing to the violation notice and waive the right to an informal Department review pursuant to Section 2443(b).~~

(f) The owner's failure to respond to the violation notice within 30 days of the date of its certified mailing results in a waiver of the right to ~~protest~~ Appeal the following:

(1) the validity of the violation(s) stated in the violation notice.

(2) removal of the Display by the Department without further notice at the owner's expense.

(3) the period of time allowed for correction of any violation.

(4) the amount of any fine, penalty, or assessed removal costs.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5400, 5463, ~~and~~ 5482, and 5485 Business and Professions Code; and 23 U.S.C. Section 131(r)(1) and (2).

§ 2442. Review of Violation Notice

~~Upon receipt of a timely written request by the recipient for review of the violation notice, the Department:~~

- ~~(a) reviews the appropriateness of the violation notice based on whether there is compliance with the Act and these regulations;~~
- ~~(b) does not revoke the permit or remove the Display until written consent by the recipient is obtained by the Department, or a final decision is issued by a court of law.~~

Any person or entity served with a notice of violation pursuant to the Act or these regulations may appeal to the Director in writing pursuant to Section 2241. The cited person or entity may contest any or all of the following aspects of the notice of violation:

- (a) The occurrence of a violation of the Act or these regulation
- (b) The amount of any fine, penalty, or assessed removal costs.
- (c) The removal of the advertising display.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5463 and 5485, Business and Professions Code.

§ 2443. Causes for Revocation of an Outdoor Advertising Permit

(a) Causes for Revocation of an Outdoor Advertising Permit pursuant to Section 5463 of the Act and Chapter 3.6 commencing with section 2441 of these regulations exists when any one of the following occurs:

- ~~(a)~~ (1) The Permittee fails to renew a permit in accordance with the Act and these regulations.
- ~~(b)~~ (2) The Permittee fails to maintain an outdoor advertising license when required.
- ~~(c)~~ (3) The permitted Display is not in place, no physical construction has begun, and placement of the Display would result in nonconformance. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, the appropriate city or county has sent the Department the notice provided for in section 5354 (b) of the Act and the Display is constructed before the local building permit expires, including any extensions to the building permit not to exceed six months.
- ~~(d)~~ (4) The property owner's consent is canceled.
- ~~(e)~~ (5) The Display is determined to be abandoned or destroyed.
- ~~(f)~~ (6) A violation of the Act or these regulations is not corrected within the time provided in the violation notice (including any modification of the time allowed after Appeal) or by court order.

(b) Any permittee served with a notice of revocation may appeal this decision pursuant to the provisions of section 2241 (b) of these Regulations, unless the permittee has previously appealed a violation notice based on the same facts.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301, 5302, 5354, 5360, 5440, 5463, 5484 and 5485, Business and Professions Code; 23 U.S.C. Section 131(r)(1) and (2); and 23 C.F.R. 750.707.

§ 2444. Causes for Revocation of an Outdoor Advertising License

(a) Causes for revocation of an Outdoor Advertising License pursuant to Section 5463 of the Act exists when one of the following occurs:

(1) Licensee fails to pay his annual License Fee. Before a License is revoked pursuant to this section, a Licensee shall be given written notice by certified mail that the license fees have not been received, and if payment is received within thirty days of the date of the notice the license will be renewed.

(2) The Licensee fails to timely pay fines, penalties or assessed removal costs. Before a License is revoked pursuant to this section, a License shall be given written notice by certified mail that the payment for the fine, penalty or assessed removal costs have not been received, and if payment is received within thirty days of the date of the notice, the license will not be revoked.

(3) A Licensee who has received three notices of violations for placing a Display without first obtaining a permit pursuant to Section 5463 of the Act within any twenty-four month period which have either not been appealed or have been upheld by the Director pursuant to Section 2242 and not been corrected, unless the matter is still pending in State court.

(4) A Licensee who has damaged two or more trees or shrubs in violation of Streets and Highways Section 730.5 in any two-year period and not made restitution provided for by Streets and Highways Code section 730.5.

(b) Upon the revocation of an Outdoor Advertising License, all permits issued to that Licensee shall be revoked after thirty (30) days' written notice unless they are transferred within one year of the date of license revocation to another Licensee or person not affiliated in any manner with the Licensee whose License was cancelled. After a License has been revoked, that Licensee may apply for a new License after two years if all previous violations have been corrected.

(c) Any Licensee served with a notice of revocation may appeal this determination to the Director pursuant to the provisions of section 2241 (b) of these regulations.

Authority cited, Sections 5250 and 5415, Business and Professions Code. Reference, Sections 5301 and 5463, Business and Professions Code.

§ 2505. Change in Freeway Character--Preliminary Landscape Determination

(a) Before the award of a Highway Planting Project, the Chief Landscape Architect makes a preliminary landscape determination, based on the project design ~~plans, plans and~~ specifications, and/or concept plans of whether the project will change the character of the freeway to a landscaped freeway. If the preliminary landscape determination is that the project will meet the criteria for being a landscaped freeway and the Highway Planting Project adjacent to existing freeway segments will begin within 180 days or that the Highway Planting Project adjacent to a new segment of freeway will begin within two fiscal years, the Chief Landscape Architect issues a notice of preliminary landscape determination to the Office of Outdoor Advertising and posts that determination on the Landscape Architect's web page. ~~to all persons who have made a written request to the Chief Landscape Architect to receive notice of all preliminary landscape determinations.~~

(b) The Office of Outdoor Advertising shall not issue a permit for a Display Adjacent To a section of freeway that is designed primarily to be viewed by a person traveling on the landscaped section after a preliminary landscaped determination is made. A Display permit which is issued, but where no physical construction of the Display has begun or exists, confers no vested rights and is canceled no earlier than 180 days after and the Permittee is notified of the action in writing by the Office of Outdoor Advertising. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, and the Display is constructed before the local building permit expires or 180 days whichever occurs first. Only customary maintenance, as described in section 2270 of this chapter may be performed on existing outdoor advertising displays adjacent to a landscaped freeway section.

(c) If the Highway Planting Project does not begin within 180 days after the date the preliminary landscape determination along an existing segment of freeway is made or within two fiscal years along a new segment of freeway, the determination lapses. The Chief Landscape Architect shall post a sends notice within 30 days of the lapsed preliminary landscape determination on the Landscape Architect's web page and send notice to the Office of Outdoor Advertising. ~~and to those who received a notice of the preliminary landscape determination.~~

(d) After the Office Outdoor Advertising is notified of the preliminary landscape determination lapse, a permit for a Display shall be issued if the Display meets the provisions of the Act and these regulations.

(e) A preliminary landscape determination lapse may not prevent a future determination that the same or similar proposed Planting meets the landscaped criteria.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

§ 2507. Landscaped Freeway--Minimum Length

(a) To be classified as a landscaped freeway, a Continuous Planting segment measured parallel from the freeway centerline is at least 1,000 feet in length. For purposes of these regulations, the 1,000-foot length is calculated by either of the following:

(1) 1,000 linear feet of Continuous Planting on one side or the median of the freeway, or

(2) 1,000 linear feet of landscaped area which is the combination of Continuous Planting on both sides and/or the median of the freeway. Continuous Planting can either overlap or have a common point of beginning and ending, as measured along the freeway centerline.

(b) If a Continuous Planting segment as described above is followed by a gap of 200 feet or less and adjoins Continuous Planting which is at least 500 feet in length, the designation "landscaped freeway" applies to the total length of the Continuous Planting segment, the "gap", and the Continuous Planting.

~~(c) The Continuous Planting requirement is not applicable to the Glen Anderson Freeway, formerly known as the Century Freeway (I-105 in Los Angeles County).~~

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

§ 2508. Change in Freeway Character--Criteria and Inspection

(a) A freeway may not be classified as a landscaped freeway until a licensed Landscape Architect employed by the Department and based on personal inspection of the Highway Planting Project, certifies in writing that the character of the freeway is changed to a landscaped freeway. The freeway character is changed to a landscaped freeway when Ornamental Vegetation is in place, is at least 1,000 feet in length, is alive, exhibits healthy growth characteristics, and the Highway Planting Project is Accepted by the Department.

(b) The Planting will require reasonable maintenance. That means a plant which, when planted, requires maintenance on a regular basis to maintain it in a healthy and attractive condition. The fact that as a plant matures it may require less maintenance than when first planted is not interpreted to mean it does not require reasonable maintenance. As used herein, maintenance means any of the following: watering, fertilizing, spraying, cultivating, pruning, cutting, mowing, replacing, weed control, washing, pest control, disease control, litter removal, or other similar plant care procedures.

(c) Functional planting does not change the character of the freeway to a landscaped freeway. Functional planting means vegetation primarily for soil erosion control, traffic safety, reduction of fire hazards, and traffic noise abatement or other non-ornamental purposes. A single row of plantings in the median shall be considered a functional planting.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

§ 2511. Temporary Removal of Plant Material Retention of Classification

A landscaped freeway retains its classification:

(a) When a construction project results in the temporary removal of the plant material. If the plant material is not replaced within six months after the Department Accepts the construction project, the Chief Landscape Architect shall review the classification upon the receipt of a written request. No review shall be made until six months after the Department accepts the construction contract. If the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within two fiscal years of the date of the request for review, the section is declassified, or,-

(b) When a catastrophic event, such as a disease, pests, freeze or fire kills over 50% of the plantings in a segment, or over 3000 trees or shrubs of the same variety within a three year period throughout the state. In the case of such a catastrophic event, the Chief Landscape Architect shall review the classification upon receipt of a written request. The section will be declassified unless a concept plan to replace the plantings is adopted within two years after the conclusion of the catastrophic event or if the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within six fiscal years of the date of the request for review.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

§ 2512. Request for Reclassification

A person may make a written request to the Chief Landscape Architect, to classify a freeway or a section of freeway as a landscaped freeway, or to declassify a freeway or section of freeway classified as a landscaped freeway.

(a) The request (1) shall be in writing; (2) shall be signed and dated; (3) shall identify the section of freeway by county, route and post mile or kilometer post; and (4) shall contain a detailed statement of reasons supporting the proposed freeway classification or declassification.

(b) Within 60 days after receiving the written request, a Landscape Architect shall inspect the freeway or section of freeway covered by the request. All findings made during this inspection are presented to the Chief Landscape Architect, who shall determine whether to reclassify the freeway section. The determination of whether to reclassify is based upon whether the freeway section meets the criteria of the Act and these regulations on the date of determination. A field review need not be made if a review has taken place within two years of the date of the request, unless the request specifies major changes have occurred within the two years preceding the request.

(c) Within 90 days after receiving a request for reclassification, the person making the request is notified in writing by the ~~Department~~ Chief Landscape Architect of the determination and the reasons therefor~~e~~. If the request is not granted, the person making the request may ~~obtain review of~~ appeal this determination ~~by~~to the Deputy Director Project Development pursuant to the provisions of section 2241 (b) of these regulations, by notifying the Deputy Director Project Development within 30 days of the Department's notification. itThe Deputy Director Project Development shall have 30 days to consider the request. If no action is taken by the Deputy Director Project Development within 30 days, the request is deemed denied and all administrative remedies exhausted. The Deputy Director Project Development may extend the time to consider the request for an additional 30 days.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

§ 2513. Displays Viewed Primarily from Landscaped Freeways

If a section of freeway is classified as a landscaped freeway, the Department determines if there is a Display Adjacent To that section of freeway which is designed to be viewed primarily by a person traveling on the landscaped section of a freeway.

(a) A Display is designed to be viewed primarily from a landscaped freeway section when the Display is within the limits of a landscaped freeway and its copy is legible to motorists from within the landscaped segment.

(b) All determinations are made in the present. The fact the Display may have been designed primarily to be viewed from another roadway at some point in the past is not determinative.

(c) Notwithstanding subsection (~~+~~ a) above, if a Display's copy is legible from both a landscaped freeway and another freeway or highway, a rebuttable presumption is established that the Display is designed primarily to be viewed from the freeway or highway with the highest daily traffic count. This presumption may be rebutted by use of the following criteria:

(1) Traffic Count. Comparing the difference between the average daily traffic count for the landscaped freeway and the other freeway or highway.

(2) Angle. The angle of placement of the Display.

(3) Visual Approach Distance. The distance the Display is legible measured along each freeway or highway it is visible from.

(4) Height. Whether the Display's height makes the Display legible to more motorists on one freeway or highway or legible to motorists for a longer period of time on one freeway or highway.

(5) Relative Size. The prominence the Display has from each freeway or highway.

(6) Copy. Does the advertising message, or have past advertising messages, give specific directions for persons on only one freeway or highway.

(7) Owner's Representations. Has the Display been represented by the owner to be viewed primarily by persons traveling on one freeway or highway.

AUTHORITY:

Note: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.